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3 **UNITED STATES DISTRICT COURT W.D. OF WASHINGTON AT TACOMA**
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5 **UNITED STATES OF AMERICA,**

6 **Plaintiff,**

7 **v.**

8 **RYAN NICKLAUS WILLIAMS,**

9 **Defendants.**
10

Case No. CR08-5124 RBL

**ORDER RE: VIOLATION OF
CONDITIONS OF SUPERVISION
AND ORDERING DETENTION**

11 **THIS MATTER is before the Court on the Pretrial Services Violation Report and the**
12 **Plaintiff's Motion for Detention.**

13 **The plaintiff appeared through AUSA Matthew Thomas. The Defendant was present and**
14 **represented by counsel, Eric Maughan. Todd Skipworth was present for Pre-trial Services.**

15 **BACKGROUND**

16 **Mr. Williams entered a plea of guilty to the offense of conspiracy to commit visa fraud, as**
17 **charged in Count 1 of the Indictment, on October 7, 2008. Sentencing is scheduled for January 13,**
18 **2009. The maximum penalty for the charge is up to five years imprisonment. The written plea**
19 **agreement sets forth the government's recommendation of low end of the Sentencing Guidelines**
20 **Range, including a probationary sentence if the defendant is eligible.**

21 **Mr. Williams has been on Pretrial Supervision since March 7, 2008. His conditions of**
22 **supervision include (1) no use, consumption or possession of any controlled substances, including**
23 **medication, unless prescribed by a physician and approved in advance by the Pretrial Services**
24 **Officer and (2) submitting to drug and alcohol testing, to include urinalysis as directed by Pretrial**
25 **Services.**
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2 **Pretrial Services submitted two prior Violation reports. The first report is dated April 2,**
3 **2008 charging Mr. Williams with using opiates on or before March 13, 2008. No action was**
4 **recommended and the undersigned concurred. The second report was dated May 28, 2008**
5 **charging Mr. Williams with using opiates on or before May 6, 2008 and using opiates and cocaine**
6 **on or before May 20, 2008. No action was recommended and the undersigned agreed. However,**
7 **because of the positive UA's, the defendant was evaluated and assessed as an opiate abuser. He**
8 **attended and completed four months of relapse prevention treatment.**

0 PRESENT HEARING

1 **At the hearing on December 9, 2008, the Plaintiff requested detention of the defendant based**
2 **on risk of flight and safety of any other person and the community. The Defendant admitted to the**
3 **four violations alleged by Pretrial Services. Each violation involved the defendant's failure to**
4 **submit to drug and alcohol testing on the dates of November 19, 2008, November 21, 2008,**
5 **November 26, 2008 and December 2, 2008.**

6 The only issue for determination by the Court was whether the Defendant should continue
7 his release on bond or be detained pending sentencing.

8 During the time Mr. Williams has been on supervision, he has reported employment as a
9 real estate agent with John L. Scott. However, he has had no income from that employment during
0 the entire period of supervision. During the hearing Mr. Williams advised that he opened a kiosk
1 in a shopping center 10 days ago and that this business takes up a great deal of his time. His
2 description of what is sold at the kiosk was vague. Mr. Williams counsel was mistakenly under the
3 impression it was an espresso stand but it appears that various types of nuts and/or spices are being
4 sold. This was all new information to Pretrial.

5 **On December 2, 2008 Mr. Williams advised Pretrial that he was not going to report for**
6 **testing, that he was busy for the remainder of the week and would be busy the next week but would**
7 **come in the following week. Mr. Williams was not able to provide the undersigned with a**
8 **satisfactory explanation as to what he was doing that made him so busy nor did he provide any**

1 good explanation as to why he was refusing to report for testing as directed. He did complain about
2 the frequency of testing (currently 3 times per month) and the fact that it takes a long time.
3 However, Mr. Skipworth explained that on one occasion Mr. Williams was at Pretrial for several
4 hours due to the fact that the UA sample he provided was very small and barely enough to test.
5 That sample tested presumptively positive. Mr. Williams was told to provide a second sample.
6 Some time passed before he was able to do this. The sample was a small quantity, but also tested
7 presumptively positive. When sent in to the lab for testing, Pretrial was advised that the quantity
8 was insufficient for testing. Even though he was told to wait to speak with Mr. Skipworth, Mr.
9 Williams left. Mr. Williams subsequently told Mr. Skipworth that his attorney advised him that he
10 did not have to wait to speak with the Pretrial officer.

11 While Mr. Williams did provide a negative UA on November 25, 2008, Pretrial is concerned
12 that Mr. Williams abuse of opiates is on going. During his initial interview, Mr. Williams disclosed
13 an extensive alcohol and drug history. He has participated in three separate drug/alcohol
14 treatment programs. Due to is continued use of prescription opiates and cocaine during
15 supervision, Mr. Williams was referred for a substance abuse evaluation, assessed to be an opiate
16 abuser and subsequently completed a four months relapse prevention program.

17 In light of his refusal to report for testing, and based on his history during supervision, it
18 appears that Pretrial's concerns are valid. This concern is highlighted by the fact that in August
19 Mr. Williams went to a new doctor and obtained a new prescription for Oxycodone (without
20 obtaining advance approval of Pretrial Services) during the time he was in the relapse prevention
21 program. He refused to sign a release which would give Pretrial the ability to confirm that Mr.
22 Williams informed the physician of his opiate addiction.

23 During his supervision the defendant has submitted positive UA's. Pretrial Services
24 requested no action and took steps to assist the defendant with his issue of opiate addiction. The
25 defendants actions in the last month, however, require the court to reach the conclusion that Mr.
26 Williams will not abide by court orders. Further, his actions support Pretrial Services opinion that
27 Mr. Williams is not staying clean and sober. This leads to an increased risk of flight as well as
28 concern for safety of the community.

1 **FINDINGS**

2 **NOW THEREFORE, the court finds the defendant has violated the conditions of his Pretrial**
3 **Supervision while on release under bond. The Court finds that there are no conditions or**
4 **combination of conditions which will assure that the defendant will appear and will not pose a**
5 **danger to other persons, if released again; and further finds that defendant is unlikely to abide by**
6 **any condition or combination of conditions set by the court**

7 **IT IS ORDERED that the defendant's bond is REVOKED and that the Defendant shall be**
8 **detained pending trial. The defendant shall be afforded reasonable opportunity for private**
9 **consultation with counsel. On order of a court of the United States or on request of an attorney for**
10 **the Government, the person in charge of the corrections facility in which defendant is confined shall**
11 **deliver the defendant to a United States Marshal for the purpose of an appearance in connection**
12 **with a court proceeding.**

13 **The clerks shall direct copies of this order to counsel for the United States, to counsel for the**
14 **defendant, the United States Marshal and to the United States Probation Office and/or Pretrial**
15 **Services Office.**

16 **DATED this 10th day of December, 2008.**

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19 Karen L. Strombom
20 United States Magistrate Judge
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